

Bradford, Kevin

From: Gardner, Carolyn <gardner@kutztown.edu>
Sent: Monday, January 16, 2023 1:50 PM
To: Weidman, Jennifer
Subject: Re: ADA Accommodation

Jennifer,

Thank you for the information. As you know, the current TRO litigation is not yet resolved, and KU is not open for business on Monday, January 16th in observation of Martin Luther King Day. As you are aware that Judge Schmehl has asked me to provide a supplemental letter from my doctor by January 18, 2023 regarding your recent proposal. I am making my best efforts to do that. My attorneys will be addressing these issues with the doctor's office, the Court, and the OAG next week.

Carolyn

Carolyn Gardner, PhD
Associate Professor Management
Department of Business Administration
Kutztown University
Kutztown, PA 19530

From: Weidman, Jennifer <weidman@kutztown.edu>
Sent: Friday, January 13, 2023 11:32 AM
To: Gardner, Carolyn <gardner@kutztown.edu>
Subject: RE: ADA Accommodation

Hello Carolyn,

The room is 11,212.72 cubic feet (1401.59 s.f. x 8' high ceiling).

The current computers in the room are all-in-one units on the desktops but students seated will be able to see each other and the speaker at the front of the room.

The Carrier Air Scrubbers have HEPA filters and MERV 13 filters. The goal is to have a minimum of 6 air changes per hour. One air scrubber in that room can't meet the demand, so we would place two units. We also have a bi-polar ionization unit on the heat pump supplying this space and increased MERV filtration. No manufacturer will certify that with the use of their equipment the air in the space is COVID free. All that can be done is add layers of protection to minimize the odds of catching COVID in any particular space.

Please let me know if you have any other questions. Based upon the information above, please advise if you would like to accept these reasonable accommodations and return to teaching as described above, or if you wish to continue with an FMLA leave for the spring semester. Please respond by end of business on 1/16/23. As you are aware, classes are beginning in less than two weeks. This will allow the department to plan accordingly.

Regards,
Jennifer



Jennifer S. Weidman MPA '93 & '20M
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From: Gardner, Carolyn <gardner@kutztown.edu>

Sent: Thursday, January 05, 2023 7:18 PM

To: Weidman, Jennifer <weidman@kutztown.edu>

Subject: Re: ADA Accommodation

Jennifer,

Thank you for this information. Would you be able to answer a couple of questions regarding the response.

Regarding number 6—thank you for the room capacity. I was asking for the physical dimensions of the room so I could calculate the square footage. If you have the square footage that would be fine. Otherwise, the dimensions of the room would be helpful.

Regarding number 7, would you happen have the actual room computer configuration. Could we get it from IT? There is quite a difference in the how the space would work for my type of courses regarding the computer monitors, etc. My students engage in group activities. There is considerable academic literature in this area known as the *sociomateriality* of learning spaces that address the learning environment.

Regarding number 10, would you provide more information on the air scrubbers.

I have reached out to my doctor.

Thank you,

Carolyn

From: Weidman, Jennifer <weidman@kutztown.edu>

Sent: Tuesday, January 3, 2023 9:59 AM

To: Gardner, Carolyn <gardner@kutztown.edu>

Subject: RE: ADA Accommodation

Hello Carolyn,

I hope you had a nice holiday season.

Your medical condition being considered a disability has never been an issue. At issue is the reasonableness of the accommodation you requested. While we continue to engage in the interactive process, we still need updated and additional medical documentation as requested previously. Kindly provide the requested medical documentation as soon as possible.

In response to your questions, please see below:

1. How would I enter the building safely? Would I go straight from my car to class? If not, how would I navigate the elevators and/or stairwell leading from my office to the classroom building? (The current

letter from my doctor requires me to avoid crowds.) The classroom in question is on the first floor in a standalone building behind Old Main, with a ground-level exterior entrance. There is a parking area directly behind the building. We recommend you avoid use of the elevator if you want to avoid being in a confined space with others, and there shouldn't be crowds in that stairwell in Old Main.

2. If I am using my office for office hours, how would the students be distanced from me there? Would I be able to require masks? You can meet with students individually to avoid crowds, you can wear a face mask and face shield to protect yourself. You can have the student seated as far away from you in your office as possible or you can schedule your office hours in an alternate location providing you with more space. You can ask someone to wear a mask, but we cannot require anyone to wear a mask.
3. Would the students in my classes be required to be current with the Covid vaccines or report their status of same? Covid vaccines are not required of anyone. Students are not required to disclose their vaccination status. In addition, these safeguards we are offering are to address these concerns.
4. Would students be tested for Covid at regular intervals? Would they be required to have a negative Covid test on the first day of class? Covid testing is not required. The safeguards being offered are to address your safety concerns.
5. Could the students be required to wear an N-95 mask in the classroom? No, masks of any type may not be required.
6. What are the physical dimensions of the classroom? Would the 35 students be socially distanced? The room holds 48 seats. In order to provide greater social distancing, we are capping the enrollment at 35 students. We would eliminate the first row of seats to install ADA-compliant presenter podium, which will be enclosed on three sides with a plexiglass shield. In addition the first row of seats would be left empty.
7. Since this room will remain a computer classroom, it is difficult to imagine how a computer lab would be a conducive environment for my classes. Some labs have had laptops that were stowed in the computer tables when not needed, allowing for students to be sitting at a regular desk/table environment. What would be the computer setup in the lab? We are installing all the necessary computer and A/V equipment to make the classroom conducive to learning. Whether there is a computer monitor or laptop setup should not interfere with your delivery of the course material to your students.
8. You mention the access to the classrooms during the day will be limited to those classes scheduled there. Would those classes be only for those faculty needing this kind of accommodation? Would this lab be open in the evening to any student or faculty? During the day, access to the room would be limited to those students and faculty with classes scheduled in that room. The only classes to be scheduled in this room would be for those faculty needing this type of accommodation. The room would remain open to any student or faculty in the evenings. We are providing disinfecting wipes in the classroom for use by anyone who may wish to do so.
9. Would access to the restroom facility in the building be limited to those individuals (students and faculty) using the building? While use of the restroom is not specifically restricted, unless you are using that classroom, you wouldn't know there was a restroom there.
10. Would adding the two air scrubbers put the classroom in compliance with the CDC Guidelines for the air filtration suggested for Institutes of Higher Education? The CDC guidelines provided recommendations/suggestions, not requirements. Two air scrubbers will address the ventilation and air exchange in the classroom.

Please let me know if you have any other questions I can help with.

Regards,
Jennifer



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From: Gardner, Carolyn <gardner@kutztown.edu>
Sent: Thursday, December 22, 2022 11:44 AM
To: Weidman, Jennifer <weidman@kutztown.edu>
Subject: Re: ADA Accommodation

Hello Jennifer,

I am assuming this offer of an accommodation is an acknowledgement by the university of my medical condition being treated as disability and there is no need to respond to the request by McKenzie Hollenbach for further medical information. If I'm wrong, of course, I will treat your offer as offered prematurely at this time.

Assuming you have no questions on my disability, your offer raises questions for me related to my disability-related health and safety concerns. In order to minimize my interactions with Dr. Shah (you can understand that a medical school professor who is also a practicing physician would prefer I have all of the information at one time) would you kindly answer the following questions about the proposed accommodation so I can go to him with a completed plan.

1. How would I enter the building safely? Would I go straight from my car to class? If not, how would I navigate the elevators and/or stairwell leading from my office to the classroom building? (The current letter from my doctor requires me to avoid crowds.)
2. If I am using my office for office hours, how would the students be distanced from me there? Would I be able to require masks?
3. Would the students in my classes be required to be current with the Covid vaccines or report their status of same?
4. Would students be tested for Covid at regular intervals? Would they be required to have a negative Covid test on the first day of class?
5. Could the students be required to wear an N-95 mask in the classroom?
6. What are the physical dimensions of the classroom? Would the 35 students be socially distanced?
7. Since this room will remain a computer classroom, it is difficult to imagine how a computer lab would be a conducive environment for my classes. Some labs have had laptops that were stowed in the computer tables when not needed, allowing for students to be sitting at a regular desk/table environment. What would be the computer setup in the lab?

8. You mention the access to the classrooms during the day will be limited to those classes scheduled there. Would those classes be only for those faculty needing this kind of accommodation? Would this lab be open in the evening to any student or faculty?
9. Would access to the restroom facility in the building be limited to those individuals (students and faculty) using the building?
10. Would adding the two air scrubbers put the classroom in compliance with the CDC Guidelines for the air filtration suggested for Institutes of Higher Education?

If you could kindly respond as soon as you possibly can, I will present one completed plan to my doctor.

Sincerely,

Carolyn

Carolyn Gardner, Ph.D.
Associate Professor of Management
Kutztown University

From: Weidman, Jennifer <weidman@kutztown.edu>
Sent: Tuesday, December 20, 2022 6:42 PM
To: Gardner, Carolyn <gardner@kutztown.edu>
Subject: ADA Accommodation

Hello Carolyn,

We are revisiting your request for ADA accommodation and are offering the following accommodation as an alternative to the one you requested:

We will convert the computer lab behind Old Main to a computer classroom. This room will have one row of desks removed to allow for the installation of an ADA-compliant presenter podium, which will be enclosed on three sides with a plexiglass shield. The class capacity would be capped at 35 students. Appropriate audio-visual equipment (screen, whiteboard, projector, etc.) will be installed. Two portable air scrubbers will be placed in the room to increase ventilation and air exchange. This is a standalone room with its own exterior entrance and restroom facility. Access to the room during the day will be limited to those classes scheduled there and disinfecting wipes will be available to wipe down areas as desired. This should provide a larger computer-equipped space with additional ventilation and air exchange and reduced foot traffic.

In order to have this work completed in time for the start of the spring semester, we will need to submit the Facilities and IT work orders in a very short timeframe. If you have questions about our offer or would like to discuss, please let me know. I am in the office the rest of the week. I would ask that you let me know if you accept or reject the offered accommodation by the close of business on Thursday 12/22/22.

Regards,
Jennifer



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